IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: Apostolopoulos et al.   Patent Application

Application No.:   09/898,650   Group Art Unit: 2623

Filed: July 3, 2001   Examiner: Newlin, Timothy R.

For: SYSTEM AND METHOD FOR RECEIVING MULTIPLE DESCRIPTION MEDIA
STREAMS IN FIXED AND MOBILE STREAMING MEDIA SYSTEMS

REPLY BRIEF

In response to the Examiner's Answer mailed on July 22, 2008, Appellants respectfully

submit the following remarks.

REMARKS

Appellants are submitting the following remarks in response to the Examiner's Answer. In these remarks, Appellants are addressing certain arguments presented in the Examiner's Answer. While only certain arguments are addressed in this Reply Brief, this should not be construed that Appellants agree with the other arguments presented in the Examiner's Answer.

Response to Response to Argument in Examiner's Answer

On page 16 of the Examiner's Answer, it is asserted "that rather than teaching away, Matsuhita in fact suggests client participation in the decision making. Matsuhita explicitly shows the client generating information used to make the ultimate decision and bidirectionally communicating with the push servers to facilitate it" (Examiner's Answer; page 16, lines 2-5).

First, Appellants note that an argument presented in the Appeal Brief is that that "Matsushita discloses that the media push engines control all decisions regarding the selection of media streams to push to the multimedia client" (Appeal Brief; page 12, lines 4-6). "In particular, Appellants respectfully submit that nowhere does Matsushita teach, describe or suggest the multimedia client sending commands, controlling the media push engines, or controlling which sub-stream components are received" (Appeal Brief; page 12, lines 19-21). Appellants understand Matsuhita to disclose that "[t]he multimedia client's RTCP receiver report notifies the Media Push Engine 12 (and all other media push engines participating in the group session) that some percentage of the component data from Media Push Engine 12. Media Push Engine 12 analyzes these reports and stops sending a selected component, in this case the X₃, thereby decreasing the amount of traffic flowing through its point of congestion" (col. 9, lines 37-44). In other words, Appellants understand Matsuhita to disclose that while the Media Push

Engine 12 bases control decisions on reports from the clients, the control decisions are made by the media push engine, as presented and argued in the Appeal Brief.

Second, Appellants respectfully disagree with the assertion that "Matsuhita teaches a source control module to make decisions on how many of the multiple bit streams to receive (col. 9, ll. 37-41)" (Examiner's Answer; page 5, lines 6-7). Appellants note that col. 9, lines 37-41, of Matsuhita recites "[t]he multimedia client's RTCP receiver report notifies the Media Push Engine 12 (and all other media push engines participating in the group session) that some percentage of the component data from Media Push Engine 12" (col. 9, lines 37-41). Appellants respectfully submit that the cited passage from Matsuhita is silent as to "a source control module to make decisions on how many of the multiple bit streams to receive." In contrast, Appellants respectfully submit that Matsuhita discloses that a media push engine determines how many sub-streams to transmit (see at least, col. 9, lines 41-53).

Appellants respectfully note that "[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention" (emphasis in original; MPEP 2141.02(VI); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)). Appellants respectfully submit that by disclosing the determination is with regard to how many sub-streams are transmitted, that Matsuhita teaches away from making "decisions on how many of the multiple bit streams to receive" as asserted.

Third, Appellants note that the Examiner's Answer asserts that "it would readily occur to one of ordinary skill in the art that the claimed invention could be implemented with decisions

locally at the client device" (Examiner's Answer; page 17, lines 1-3). Appellants respectfully disagree.

Appellants understand the Examiner's Answer to assert that it would be obvious to combine features of both the media push engine 12 and the multimedia clients 16 into a single mobile device in supporting the instant rejection. For example, in supporting the instant rejection, it is asserted that "Matsuhita teaches adjusting the number of media push engines based upon network traffic congestion" (Examiner's Answer; page 4, lines 7-8) and that "Matsuhita teaches a source control module to make decisions on how many of the multiple bit streams to receive" (Examiner's Answer; page 5, lines 6-7). Appellants respectfully submit that it would not be obvious to one of ordinary skill in the art to combine these teachings of Matsuhita into a single mobile device, as asserted. In contrast, the operations of the media push engines 12 and the multimedia clients 16 of Matsuhita, teach away from such a combination with Kosaka.

CONCLUSION

In view of the above remarks, Appellants continue to assert that pending Claims 1-3, 5-10, 12, 14-20 and 22-24 are patentable over the combination of Matsuhita in view of Kosaka, and that pending Claims 4, 11 and 21 are patentable over the combination of Matsushita in view of Kosaka and further in view of "Error-Resilient Video Compression" by Apostolopoulos, for reasons presented above and for reasons previously presented in the Appeal Brief.

Respectfully submitted,

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Dated: September 22, 2008

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